

Subject: Re: Fw: Call From TDEC's counsel re AGC's Construction Permit
To: CN=Gregg Worley/OU=R4/O=USEPA/C=US@EPA
Cc: CN=Dick DuBose/OU=R4/O=USEPA/C=US@EPA CN=Kathleen Forney/OU=R4/O=USEPA/C=US@EPA CN=ScottR Davis/OU=R4/O=USEPA/C=US@EPA CN=Shanieka Pennamon/OU=R4/O=USEPA/C=US@EPA
From: CN=Keri Powell/OU=R4/O=USEPA/C=US
Submit Time: 3/28/2012 13:38:09

Deliberative Process / Ex. 5

kp

Keri N. Powell
 Associate Regional Counsel
 U.S. EPA Region 4
 Atlanta Federal Center
 61 Forsyth St., S.W.
 Atlanta, GA 30303
 (404) 562-9567
 powell.keri@epa.gov

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Gregg Worley---03/27/2012 01:17:52 PM---Keri, My point is that it would be highly irregular for the Region to recommend permit conditions fo

From: Gregg Worley/R4/USEPA/US
To: Keri Powell/R4/USEPA/US@EPA
Cc: Dick DuBose/R4/USEPA/US@EPA, Kathleen Forney/R4/USEPA/US@EPA, ScottR Davis/R4/USEPA/US@EPA, Shanieka Pennamon/R4/USEPA/US@EPA
Date: 03/27/2012 01:17 PM
Subject: Re: Fw: Call From TDEC's counsel re AGC's Construction Permit

Keri,

Deliberative Process / Ex. 5

Gregg

Gregg M. Worley
 Chief, Air Permits Section
 U.S. EPA Region 4
 (404) 562-9141
 fax (404) 562-9019

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Keri Powell---03/27/2012 10:50:54 AM---Gregg--in this instance, we have a situation where the plant "rebricks" every 10 years or so. They

From: Keri Powell/R4/USEPA/US
 To: Gregg Worley/R4/USEPA/US@EPA
 Cc: Dick DuBose/R4/USEPA/US@EPA, Kathleen Forney/R4/USEPA/US@EPA, ScottR Davis/R4/USEPA/US@EPA, Shanieka Pennamon/R4/USEPA/US@EPA
 Date: 03/27/2012 10:50 AM
 Subject: Re: Fw: Call From TDEC's counsel re AGC's Construction Permit

Deliberative Process / Ex. 5

-----Gregg Worley/R4/USEPA/US wrote: -----

To: Shanieka Pennamon/R4/USEPA/US@EPA
 From: Gregg Worley/R4/USEPA/US
 Date: 03/27/2012 09:11AM
 Cc: Dick DuBose/R4/USEPA/US@EPA, Kathleen Forney/R4/USEPA/US@EPA, Keri Powell/R4/USEPA/US@EPA, ScottR Davis/R4/USEPA/US@EPA
 Subject: Re: Fw: Call From TDEC's counsel re AGC's Construction Permit

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Gregg

Gregg M. Worley
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Shanieka Pennamon---03/27/2012 08:42:39 AM---Katy, Below is DOJ's review (E. Anderson) of her discussion with TDEC about permitting. TDEC would

From: Shanieka Pennamon/R4/USEPA/US
To: Kathleen Forney/R4/USEPA/US@EPA
Cc: Gregg Worley/R4/USEPA/US@EPA, Dick DuBose/R4/USEPA/US@EPA
Date: 03/27/2012 08:42 AM
Subject: Fw: Call From TDEC's counsel re AGC's Construction Permit

Katy,

Deliberative Process / Ex. 5

Shanieka Pennamon, P.E.
U.S. Environmental Protection Agency
Air Pesticides and Toxics Management Division
61 Forsyth Street
Atlanta, Georgia 30303
404-562-9213
pennamon.shanieka@epa.gov

"Ability is what you're capable of doing. Motivation determines what you do. Attitude determines how well you do it." - Raymond Chandler

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----- Forwarded by Shanika Pennamon/R4/USEPA/US on 03/27/2012 08:23 AM -----

From: "Anderson, Esperanza (ENRD)" <Esperanza.Anderson@usdoj.gov>
 To: Shanika Pennamon/R4/USEPA/US@EPA
 Date: 03/26/2012 02:29 PM
 Subject: RE: Call From TDEC's counsel re AGC's Construction Permit

Please give Katie F. a copy of the permit application and let her know that TDEC is interested on her thoughts on the below email. Let me know if she wishes to call TDEC and offer alternative language. Thanks Shanika.

Esperanza Anderson
 Trial Attorney
 Environmental Enforcement Section
 Environment and Natural Resources Division
 United States Department of Justice
 email: esperanza.anderson@usdoj.gov
 Telephone (202) 514-4059

From: Shanika Pennamon [<mailto:Pennamon.Shanika@epamail.epa.gov>]
Sent: Monday, March 26, 2012 2:27 PM
To: Anderson, Esperanza (ENRD)
Cc: Katie McClintock; Keri Powell; Melanie Shepherdson
Subject: Re: Call From TDEC's counsel re AGC's Construction Permit

That is correct. And because they are avoiding PSD, our permitting people wouldn't generally see it. But we can certainly have them take a look at the application and maybe talk to Katy Forney if they had questions on how to word certain things.

Shanika Pennamon, P.E.
 U.S. Environmental Protection Agency
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 Atlanta, Georgia 30303
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▼ "Anderson, Esperanza (ENRD)" ---03/26/2012 01:51:30 PM---EPA, Phillip Hilliard, Assistant Attorney General for TN, called to give us a heads-u

From: "Anderson, Esperanza (ENRD)" <Esperanza.Anderson@usdoj.gov>

To: Keri Powell/R4/USEPA/US@EPA, Shanieka Pennamon/R4/USEPA/US@EPA, Katie McClintock/R10/USEPA/US@EPA, Melanie Shepherdson/DC/USEPA/US@EPA

Date: 03/26/2012 01:51 PM

Subject: Call From TDEC's counsel re AGC's Construction Permit

EPA,

Phillip Hilliard, Assistant Attorney General for TN, called to give us a heads-up. TDEC wishes to move forward in issuing AGC Flat Glass a construction permit for G-1 with permit limits as AGC requested in its application. They wanted EPA to know 1) that TDEC does not think this is violating any regulation and 2) that they are open to hearing from the appropriate person at EPA regarding any particular language that should be added to the construction permit. TDEC is currently considering adding language to the construction permit that states "nothing in this permit indicates that the State of Tennessee found AGC to be in compliance with PSD in the past."

I reiterated to Phillip again how enforcement EPA is different from permitting EPA. I also stated that I would update EPA (as a whole) with TDEC's stated approach.

My understanding from Keri is that EPA permitting normally does not get an opportunity to comment on construction permits. Is that right?

Esperanza Anderson
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